

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

LOG #1088236

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	January 22, 2018
Time of Incident:	4:48 PM
Location of Incident:	6402 S. Honore St.
Date of COPA Notification:	January 23, 2018
Time of COPA Notification:	4:01 PM

On January 22, 2018, the complainant, [REDACTED] was arrested by Officers Farias and [REDACTED] for battery and for two counts of resisting/obstructing a peace officer. [REDACTED] alleged that the officers detained him without justification and for an excessive amount of time. [REDACTED] also alleged that the officers searched inside his coat pockets, pulled him towards their police vehicle, and arrested him without justification. After reviewing available video footage and interviewing the accused officers, COPA determined the allegations that [REDACTED] was detained for an excessive amount of time and that officers used excessive force to pull him were Sustained. The remaining allegations were Exonerated.

II. INVOLVED PARTIES

Involved Officer #1:	Roger Farias, Star #9942, Employee ID [REDACTED] Date of Appointment: December 16, 2009. Police Officer. 7 th District, Date of Birth: [REDACTED]
Involved Officer #2:	[REDACTED]
Involved Civilian #1:	[REDACTED] Date of Birth: [REDACTED]

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Farias	1. Detained [REDACTED] without justification, in violation of Rule 6 and Rule 8.	Sustained
	2. Detained [REDACTED] for excessive amount of time without justification, in violation of Rule 6.	Sustained

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	<p>3. Searched inside [REDACTED] coat pockets without justification, in violation of Rule 6.</p> <p>4. Used force without justification to pull [REDACTED] to the CPD vehicle without cause when [REDACTED] was not under arrest, in violation of Rule 6 and Rule 9.</p> <p>5. Arrested [REDACTED] without justification, in violation of Rule 6.</p>	<p>Exonerated</p> <p>Sustained</p> <p>Exonerated</p>
Officer [REDACTED]	[REDACTED]	

IV. APPLICABLE RULES AND LAWS

Rules

1. **Rule 6:** Prohibits disobedience of an order or directive, whether written or oral.
2. **Rule 8:** Prohibits disrespect to or maltreatment of any person, while on or off duty.
3. **Rule 9:** Prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

General Orders

1. **G02-04:** Prohibition Regarding Racial Profiling and Other Bias Based Policing.
2. **G03-02:** Use of Force.
3. **G06-01-04:** Arrestee and In-Custody Communications

Special Orders

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I. S04-13-09: Investigatory Stop System:

Federal Laws

1. **Fourth Amendment to the United States Constitution:** Guarantees protection from unlawful arrest and unreasonable search and seizure to all persons in this country.

State Laws

1. **725 ILCS 5/107-14:** Delineates the authority for conducting an Investigatory Stop.

V. INVESTIGATION¹

a. Interviews

COPA interviewed the complainant [REDACTED] on February 5, 2018. [REDACTED] related that on January 22, 2018, he was ending his work day at an urban garden near 6401 S. Honore.² [REDACTED] was waiting to get a ride home when a marked CPD sedan approached. The police driver (Officer Farias) asked [REDACTED] why he was there but [REDACTED] believed the officer had seen him working at this address on at least two previous occasions. [REDACTED] stated that he was holding his cellphone in his left hand and he had his right hand in his coat pocket. The officer yelled from the squad car that [REDACTED] pocket looked "bulky" and asked what [REDACTED] had in his pocket. [REDACTED] told the officer he had nothing in there and the officer asked [REDACTED] to take his hand out of his pocket. [REDACTED] asked why the officer wanted him to remove his hand and told the officer to find "something better to do." [REDACTED] took his hand out of his pocket. The officer exited the CPD vehicle along with his partner (Officer [REDACTED]), approached [REDACTED] and continued to state [REDACTED] coat looked "bulky." [REDACTED] claimed he had both hands out of his pockets at this time. [REDACTED] related that he had nothing in his pockets. Both officers searched [REDACTED] including searching in [REDACTED] coat pockets. [REDACTED] asked if he was under arrest and Officer Farias said no, but asked [REDACTED] to walk to the police car. [REDACTED] refused to walk to the CPD vehicle and wanted to know if he was under arrest. Officer Farias told [REDACTED] he was not under arrest but wanted to ask [REDACTED] questions. [REDACTED] refused to answer any questions. Officer [REDACTED] then had [REDACTED] by the arm while the male officer was holding his other arm. [REDACTED] thought the officers were trying to pull [REDACTED] towards the police vehicle. [REDACTED] asked why he was being detained and the officers did not give a "definitive answer." [REDACTED] denied being a threat towards either officer. The officers continued trying to pull [REDACTED] towards the car, which he refused to do since he was not under arrest. Shortly after, six to seven squad cars arrived on scene. Then, Officer [REDACTED] told [REDACTED] he was under arrest for hitting Officer Farias. [REDACTED] denied hitting the male officer or resisting arrest. [REDACTED] further related that he complied with the officers and allowed them to search him. [REDACTED] stated that a person named [REDACTED] saw [REDACTED] interaction with CPD and [REDACTED] family was made aware of the arrest. When [REDACTED] family came to the police station and asked for [REDACTED], Officer Farias told them that [REDACTED] did not want to talk to anyone and he was

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² Att. 8

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fine.³ [REDACTED] asked to make a phone call when he first arrived at the police station and to speak to a commander, both of which were denied.⁴

COPA interviewed Officer [REDACTED] on May 3, 2018.⁵ According to Officer [REDACTED], on January 22, 2018, she and Officer Farias were on routine patrol near 64th and Honoree when they saw [REDACTED] speaking to an unknown male. Officer [REDACTED] saw this unknown male look at the officers, then gesture at [REDACTED]. [REDACTED] proceeded to look at the officers and walk away. Before walking away, [REDACTED] reached toward his pocket and had his left hand in his pocket. Officer [REDACTED] stated that the unknown male was not questioned or detained by her or her partner. Officer Farias attempted to speak to [REDACTED] who ignored the officers. Officer [REDACTED] then exited the police car, saw [REDACTED] had a bulge, and asked [REDACTED] to take his left hand out of his pocket. [REDACTED] refused, causing Officer Farias to think [REDACTED] was possibly armed. Officer Farias responded by grabbing [REDACTED] by the jacket and left arm, causing [REDACTED] to stiffen his body. Once Officer Farias' pulled [REDACTED] left arm out of his pocket, [REDACTED] hand was in a fist. Then, Officer [REDACTED] exited the police vehicle and approached. [REDACTED] grabbed Officer Farias' arm and Officer [REDACTED] told [REDACTED] not to touch Officer Farias multiple times. When Officer [REDACTED] grabbed [REDACTED] arm to remove it from her partner's arm, [REDACTED] started flailing his arm and telling her not to touch him. At that point, [REDACTED] was under arrest for battery to a police officer and Officer [REDACTED] tried to handcuff him. Officer [REDACTED] was unable to get [REDACTED] into handcuffs because he was flailing his arms, so she requested backup. According to Officer [REDACTED] she told [REDACTED] to go to the police vehicle after he had already touched Officer Farias. After watching her body worn camera (BWC) footage, Officer [REDACTED] stated she wanted [REDACTED] to go to the police car before he was arrested because they were completing an investigatory stop and [REDACTED] refused to provide identification. Officer [REDACTED] did not initially tell [REDACTED] why he was under arrest because she did not feel she had to and because he was uncooperative. [REDACTED] was not answering her questions so she did not think she had to answer his. Officer [REDACTED] described [REDACTED] as aggressive and non-cooperative. She related he was loud, ignored verbal commands, flailed his arms, and grabbed Officer Farias' forearm with his right hand. Per Officer [REDACTED] she searched [REDACTED] pockets after he was under arrest. Officer [REDACTED] did not remember if Officer Farias performed a protective pat down on [REDACTED] before the arrest. Officer [REDACTED] denied having previously interacted with [REDACTED] or knowing he was outside of his workplace. Officer [REDACTED] related she did not ask [REDACTED] for his name and only for identification, because subjects of street-stops often lie to police.

On May 3, 2018, COPA interviewed Officer Roger Farias.⁶ Officer Farias related that on January 22, 2018, he was on routine patrol when he encountered [REDACTED] and performed a street-stop. Officer Farias was in his squad car, saw [REDACTED] on the sidewalk with an unknown male, and approached. The two men looked at the officers and separated. [REDACTED] walked in the opposite direction while the unknown male looked towards the officers and motioned towards [REDACTED]. Officer Farias then turned his attention towards [REDACTED] who was looking towards the officers and holding an unknown object in his left coat pocket. Officer Farias observed a quick arm movement

³ While [REDACTED] complained that Officer Farias did not allow his family to see him or provide his with family information. Per General Order G06-01-04, the officer was not out of policy and this allegation was not served.

⁴ Per General Order G06-01-04, Officer Farias was not out of policy and the allegations that he denied [REDACTED] a phone call and access to the commander were not served.

⁵ Att. 29

⁶ Att. 34

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between the two men, which the officer suspected was a drug transaction. Officer Farias also suspected [REDACTED] had a weapon in his pocket because he saw a bulge. Officer Farias stated he had reasonable suspicion that a crime had occurred or was about to occur, so he detained [REDACTED]. The unknown male was not questioned or detained because Officer Farias and Officer [REDACTED] were busy with [REDACTED] and the unknown subject left. Officer Farias was in his vehicle and tried to talk to [REDACTED] but [REDACTED] ignored the officer and kept walking. Officer Farias then exited the vehicle to talk to [REDACTED] and asked to see his hand. [REDACTED] continued to ignore Officer Farias and did not remove his hand from his pocket. Officer Farias then closed the distance to see what was in [REDACTED] pocket and did a protective pat-down. Officer Farias was able to grab [REDACTED] arm and see inside [REDACTED] pocket while holding [REDACTED] arm, observing a cellphone and miscellaneous items. Officer Farias was able to determine [REDACTED] did not have a weapon. However, the detention was not over because [REDACTED] was resisting and placed hands on Officer Farias. After reviewing his BWC video, Officer Farias elaborated that he looked inside [REDACTED] jacket pocket before [REDACTED] grabbed the officer's arm.

[REDACTED] was not handcuffed because Officer Farias initially tried to detain him and because he was flailing his arms. Per Officer Farias, they asked [REDACTED] to go towards their car because he was in custody. After watching his BWC footage, Officer Farias stated that Officer [REDACTED] told [REDACTED] to go to the car because the officers prefer performing street-stops in front of the squad car. Officer Farias stated that the interaction changed from a street-stop to an arrest after [REDACTED] flailed his arms, pulled away, and grabbed Officer Farias's arm. Officer Farias elaborated that [REDACTED] grabbed the officer's arm "to defeat arrest."⁷ [REDACTED] was not told why he was being detained or arrested because Officer Farias did not want [REDACTED] to become combative. After Officer [REDACTED] requested assisting units, [REDACTED] was flailing more -- in what Officer Farias thought was an attempt to defeat arrest. Further, Officer Farias was in fear of receiving a battery from [REDACTED]. Officer Farias denied that he arrested [REDACTED] for not cooperating. Officer Farias denied having interacted with [REDACTED] and did not know [REDACTED] was outside of his workplace. At the police station, some of [REDACTED] coworkers arrived but the officer told them he could not provide any information since [REDACTED] is an adult. Officer Farias could not remember exactly what these individuals asked him, but he told them there was nothing they could do. Officer Farias described [REDACTED] as evasive, uncooperative, and aggressive. Officer Farias did not search inside [REDACTED] pockets until after the arrest.

b. Digital Evidence

Video surveillance was obtained of [REDACTED] arrest from I Grow Chicago, located at 6401 S. Honore.⁸ On January 22, 2018 at roughly 4:49 PM, a marked CPD SUV parked in front of [REDACTED]. [REDACTED] remained standing on the street until the officers exited their vehicle several seconds later, also at 4:49 PM. Officer Farias was seen engaging with [REDACTED] while Officer [REDACTED] approached. Officer Farias made arm motions, which may have been the officer searching [REDACTED]. Due to the video's poor quality, it is unclear what exactly was occurring. At about 4:51 PM, Officer [REDACTED] appeared to pull [REDACTED] followed by [REDACTED] making an arm gesture. At about 4:52 PM, a second police car arrived on scene, followed shortly by several additional assist units.

⁷ 13:30 minute mark

⁸ Att. 23

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POD footage was obtained from 6401 S. Wolcott.⁹ No relevant content from [REDACTED] January 22, 2018 arrest was recorded by this POD.

Body Worn Camera (BWC) footage was obtained from both accused officers.¹⁰ This footage is summarized below.

Officer Farias

Per Officer Farias' BWC, he and Officer [REDACTED] approached [REDACTED] in their vehicle at approximately 4:49 PM. Officer Farias exited the vehicle and asked to see [REDACTED] hand, which [REDACTED] refused. Officer Farias pulled [REDACTED] left arm/jacket sleeve. Officer Farias kept pulling on [REDACTED] left arm and [REDACTED] continued to resist and tell the officer to let him go.¹¹ At about 4:50 PM, Officer Farias told [REDACTED] to come to the car and Officer [REDACTED] told [REDACTED] not to touch her partner. At roughly 4:50 PM, [REDACTED] told the officers he did not want to go to their car. Shortly after, Officer [REDACTED] grabbed [REDACTED] right arm. Officer Farias asked [REDACTED] if he had any weapons, which [REDACTED] denied. [REDACTED] refused to go with the officers and Officer [REDACTED] tried to maintain a grip of [REDACTED] right hand while [REDACTED] tried to pull away. At approximately 4:52 PM, [REDACTED] asked if he was under arrest and Officer Farias told [REDACTED] he was being detained. [REDACTED] asked the officer why he was being detained and Officer Farias related he was trying to talk to [REDACTED]. At roughly 4:51 PM, Officer Farias told [REDACTED] he had a bulge "right there." Meanwhile, [REDACTED] kept trying to get his arm away from Officer [REDACTED] and Officer [REDACTED] kept gripping [REDACTED] right arm and telling [REDACTED] to stop.¹² Officer [REDACTED] asked [REDACTED] for identification and [REDACTED] responded by again asking what he was being stopped for.

At about 4:52 PM, two additional officers arrived in a marked SUV. At approximately 4:52 PM, Officer [REDACTED] told [REDACTED] he was under arrest and grabbed her handcuffs. When [REDACTED] asked what he was being arrested for, Officer [REDACTED] related she would explain it to him at the police station. [REDACTED] would not give his hands to Officer [REDACTED] and kept asking what he was being arrested for. At least two additional marked vehicles arrived at roughly 4:52 PM. [REDACTED] was then handcuffed by Officer [REDACTED] at about 4:53 PM. Both arresting officers searched [REDACTED] pockets. Officer [REDACTED] told [REDACTED] he was under arrest for battery to a police officer and that she told him not to touch her partner multiple times. Officer Farias put [REDACTED] into his police car at roughly 4:55 PM. At this time, Officer Farias told [REDACTED] that [REDACTED] did not remove his hands from his pockets when asked, that [REDACTED] would find out his charges later, and that [REDACTED] would cooperate next time. Officer Farias also told [REDACTED] "you gotta listen to police."

Officer Farias drove away from the scene at about 4:56 PM and arrived at the police station at about 5:01 PM. At about 5:03 PM, [REDACTED] asked to speak with Commander Johnson and Officer Farias told [REDACTED] the commander was busy. At about 5:04 PM, Officer Farias told [REDACTED] that when an officer approaches and tells you to remove your hand from your pocket and you do not,

⁹ Att. 22

¹⁰ Att. 26

¹¹ See Photo 1

¹² See Photo 2

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that gives the officer a right to touch you. At about 5:07 PM, Officer Farias told [REDACTED] that if he does not like officers touching him, he should have done what the officers instructed.



Photo 1



Photo 2

Officer [REDACTED]

Officer [REDACTED] BWC began at about 4:49 PM with Officer Farias talking to [REDACTED] from the police car before parking.¹³ Both officers exited and approached [REDACTED] on the sidewalk. Officer Farias was seen grabbing [REDACTED] left arm and [REDACTED] was heard telling Officer Farias to stop touching him.¹⁴ At approximately 4:50 PM, [REDACTED] put his right arm on Officer Farias left arm while Officer Farias was grabbing [REDACTED] left arm with both of his hands.¹⁵ [REDACTED] again touched Officer Farias' left arm with his right hand and Officer [REDACTED] grabbed [REDACTED] right arm to stop him. Both officers kept grabbing [REDACTED] by his left and right arms respectively.

¹³ Officer [REDACTED] BWC footage was similar to Officer Farias'. Therefore, duplicate details were omitted from the summary of Officer [REDACTED]'s BWC.

¹⁴ See Photo 3

¹⁵ See Photo 4

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responded by pulling his arms away and telling the officers to stop touching him. At about 4:53 PM, Officer [REDACTED] removed her Taser and pointed it at [REDACTED] with the laser's visible on [REDACTED] chest.¹⁶ [REDACTED] was handcuffed by Officer [REDACTED] with Officer Farias and an assisting officer holding [REDACTED] arms.

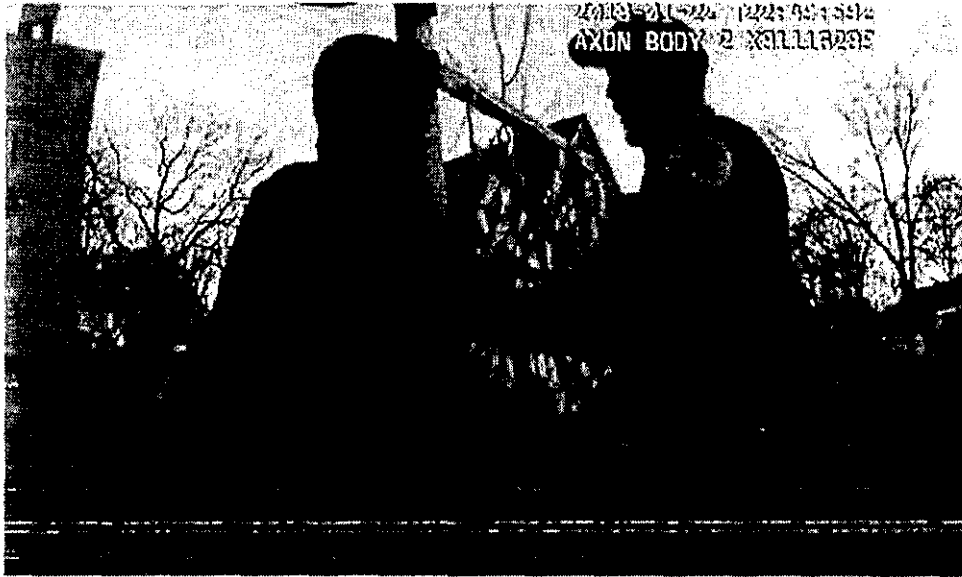


Photo 3



Photo 4

¹⁶ See Photo 5

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Photo 5

c. Physical Evidence

No physical evidence was obtained for the present investigation.

d. Documentary Evidence

An **Arrest Report** was obtained from [REDACTED] January 22, 2018 arrest with RD #JB125662.¹⁷ [REDACTED] was charged with misdemeanor battery and two misdemeanor charges of resisting/obstructing a police officer. Per this report, Officers Farias and [REDACTED] were on "routine patrol" when [REDACTED] was observed looking in the officers' direction before walking north. The officers saw [REDACTED] "immediately reach into his left jacket pocket and turned away [...] as if he was attempting to conceal an unknown object." When the officers approached [REDACTED] Officer Farias "observed a large bulge" in [REDACTED] left coat pocket. [REDACTED] refused to remove his hand from his pocket and "became irate." Officer Farias grabbed [REDACTED] left arm. [REDACTED] "stiffened his body and aggressively grabbed" Officer Farias' arm. Officer [REDACTED] then grabbed [REDACTED] hand off Officer Farias, "when arrestee began to flail his arm away from" Officer [REDACTED]. Officer Farias continued holding [REDACTED] who again grabbed Officer Farias. Officer [REDACTED] then told [REDACTED] he was under arrest and tried to handcuff him, but [REDACTED] pulled his arm away and flailed his arm. Assisting units arrived and [REDACTED] was arrested.

An **Original Case Incident Report** was identified for RD #JB125662.¹⁸ This report included similar content to the arrest report, but elaborated that [REDACTED] appeared to be concealing an object in his coat pocket and looked towards Officers Farias and [REDACTED] "multiple times." The officers tried to complete a field interview with [REDACTED] but he did not respond. Officer Farias asked [REDACTED] what he was holding and the officers approached him on foot. When [REDACTED] refused to remove his left hand from his pocket, Officer Farias grabbed [REDACTED] left hand. [REDACTED] "tightened the muscles refusing to show [his] left hand," leading Officer Farias to believe [REDACTED]

¹⁷ Att. 9

¹⁸ Att. 10

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had a weapon. Next, Officer [REDACTED] assisted in detaining [REDACTED] began flailing his right arm, so she requested assisting units. [REDACTED] tried to pull away from Officer Farias and both officers gave [REDACTED] verbal commands. When assisting units arrived, [REDACTED] released Officer Farias' arm and [REDACTED] was placed into custody.

Inventory Reports were obtained from [REDACTED] January 22, 2018 arrest.¹⁹ Neither a gun or narcotics were not recovered from [REDACTED] per this document.

Lastly, an Investigative Stop Report (ISR) was identified for [REDACTED] from January 22, 2018.²⁰ This report contained similar content to the Arrest Report and Original Case Incident Report detailed above.

VI. ANALYSIS

First, COPA believes that Officer Farias and [REDACTED] observed [REDACTED] and were suspicious of his behavior, however based on the information they articulated to COPA we find that their actions were not justified. At its inception the officer's detention of [REDACTED] lacked reasonable, articulable suspicion to detain. The officers attempted a consensual street stop to which, by all accounts, [REDACTED] attempted to avoid. Yet, the officers detained [REDACTED] in violation of his constitutional rights.

In opposition, Officer Farias stated he suspected [REDACTED] was engaged first in a narcotics transaction and upon approach suspected [REDACTED] to be armed. It is problematic that Officer Farias first articulated his suspicions of a narcotics transactions to COPA and omitted those observations from the Arrest Report, Original Case Incident Report, and Investigative Stop Report. Moreover, Officer Farias description of the transaction to COPA lacks any specific detail that would even rise to the level of reasonable suspicion. Officer Farias does not claim he saw an exchange of money, an exchange of any item or the retrieval of an item from a secret location. In fact, the only basis for his suspicion is that two individuals looked in the officer's direction and separated.

When an officer, without reasonable suspicion or probable cause, approaches an individual, the individual has a right to ignore the police and go about his business. *Florida v. Royer*, 460 U. S. 491 (1983), at 498. And any "refusal to cooperate, without more, does not furnish the minimal level of objective justification needed for a detention or seizure." *Florida v. Bostick*, 501 U. S. 429, 437 (1991). In the instant case, Officer Farias' articulation for the stop does not constitute a reasonable belief a narcotics transaction occurred. Further, in the BWC the officers never articulate any basis for the stop to [REDACTED] and instead argue to [REDACTED] his failure to follow their commands grants them the right to detain.

However even if Officer Farias' basis for the stop was enough, the Court in *Terry* recognized that an officer can detain an individual to resolve the ambiguity between a seemingly innocent act and one that may implicate a crime. 392 U. S. 1 at 30 (1968). Officer Farias told COPA that after detaining [REDACTED] he could see inside his pocket and was able to determine that he did not possess a weapon. The BWC confirms this version. Officer Farias is seen approaching and [REDACTED] has a

¹⁹ Att. 24

²⁰ Att. 39

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plastic water bottle pinned to his body with his forearm while his hand is in his pocket. As Officer Farias grabs [REDACTED] arm the bottle falls to the ground and Officer Farias never pats [REDACTED] down or makes any moves to indicate a further search for weapons or guns. A verbal standoff occurs until Officer [REDACTED] decides to arrest [REDACTED].

In sum, while it is believable Officer Farias thought something suspicious was occurring, his basis for the detention is simply not particularized to amount to reasonable and articulable suspicion. Moreover, even had Officer Farias possessed reasonable articulable suspicion to detain and frisk [REDACTED] by his own admission, Officer Farias' suspicions of criminal activity were dispelled but [REDACTED] and yet [REDACTED] was still not free to leave. Therefore, Allegation 1 and 2 against Officer Farias and Officer [REDACTED] that they detained [REDACTED] without justification and detained him for an unreasonable amount of time, are Sustained.

Allegation 3, that Officers [REDACTED] and Farias searched inside [REDACTED] coat pockets without justification, is Exonerated. Both officers admitted to searching [REDACTED] pockets, but not until after he was arrested. As seen in Officer Farias' BWC, he approached [REDACTED] but the first several seconds of the interaction cannot be seen on camera. Per Officer Farias, he was doing a plain-touch pat down. [REDACTED] also reported that Officer Farias approached and searched him. However, [REDACTED] was not clear in his statement as to exactly when the officers searched inside his pockets. BWC shows the officers searching inside [REDACTED] pockets after he was arrested and in handcuffs. During his COPA interview, [REDACTED] also related that the officers searched inside his bookbag after he was arrested. Per S04-13-09, officers can perform a protective pat down during an investigatory stop limited to a "pat down of the outer clothing of a person." Had the officers searched inside his pockets prior to arrest, this allegation would be sustained. However, since the search occurred after arrest, Allegation 3 against the officers is Exonerated.

Allegation 4 against both officers, they used force without justification to pull [REDACTED] to the CPD vehicle without cause when [REDACTED] was not under arrest, is Sustained. However, Allegation 5, that Officers Farias and [REDACTED] arrested [REDACTED] without justification, is Exonerated. Both officers acknowledged they wanted [REDACTED] to go to their car before he was under arrest because they prefer performing street investigations near their squad car. As argued above, the officers never possessed reasonable articulable suspicion and even if they did their suspicions were already been dispelled by that point. Despite a lack of particularized suspicion, the officers still had hands on [REDACTED] and tried to pull him towards their car. Per Special Order S04-13-09, "absent reasonable articulable suspicion or probable cause, that person must be free to walk away at any time." [REDACTED] was not free to leave as the officers were physically detaining him and trying to pull him towards their vehicle. Per General Order G03-02, the use of physical contact by a department member must be reasonable, necessary, and proportional. The force used to pull [REDACTED] arms was not reasonable or necessary. The officers should not have even been detaining him at that point. [REDACTED] was not a threat and the officers were not serving a lawful purpose by pulling him towards their vehicle. Rather, the force seemed punitive because [REDACTED] was being difficult. However, despite the unlawful detention, the BWC footage clearly shows [REDACTED] pulling his wrist from Officer [REDACTED] grip and grabbing Officer Farias' forearm. Therefore, the officers were justified in arresting [REDACTED]. Therefore, Allegation 4 is Sustained while Allegation 5 is Exonerated.

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Finally, [REDACTED] alleged that Officer Farias did not allow his family to visit at the police station, denied [REDACTED] a telephone call, and denied [REDACTED] access to a commander. All three allegations were determined not to be misconduct, and therefore Officer Farias was not served. According to General Order G06-01-04, visitors are allowed unless "it would not be prudent to do so at that time." As [REDACTED] had just been arrested and was being processed, it was not prudent to interrupt that process with visitors. Further, this General Order states that officers can only share communication with or to an arrestee "for appropriate police purposes." Therefore, it would have been inappropriate for Officer Farias to share details about [REDACTED] arrest with his family. Further, a phone call is allowed "within a reasonable period of time." Again, [REDACTED] had just been arrested. He needed to be processed before a phone call would be reasonable. Lastly, arrestees are not guaranteed access to commander on demand. Officer Farias not bringing [REDACTED] to a commander was not misconduct.

VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Officer Farias	1. Detained [REDACTED] without justification, in violation of Rule 6 and Rule 8.	Sustained
	2. Detained [REDACTED] for excessive amount of time without justification, in violation of Rule 6.	Sustained
	3. Searched inside [REDACTED] coat pockets without justification, in violation of Rule 6.	Exonerated
	4. Used force without justification to pull [REDACTED] to the CPD vehicle without cause when [REDACTED] was not under arrest, in violation of Rule 6 and Rule 9.	Sustained
	5. Arrested [REDACTED] without justification, in violation of Rule 6.	Exonerated
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

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Approved:



Andrea Kersten

Deputy Chief Administrator – Chief Investigator

7/10/18

Date

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Appendix A

Assigned Investigative Staff

Squad#:	Four
Investigator:	Kelsey Fitzpatrick, #61
Supervising Investigator:	James Murphy-Aguilu, #19
Deputy Chief Administrator:	Andrea Kersten